

# Creating an online audit process

Case Counting Headaches? Have quarterly emails from the Commission that you dread? Unsure when someone is out of compliance or, if your attorneys work in more than one county, unsure what that means to their caseload?

Well, this article is for you...the intrepid Request for Reimbursement submitter! The Commission is investigating the development of an online dashboard system that will allow you to submit your reimbursement requests electronically, filling out forms that do an audit check automatically for you!

Your attorneys would enter their experience electronically and both you and the Commission could track their case qualifications. At a glance, we would be able to compare your expenses to that of other counties and work with the local PD Board as to why expenses are exceptionally high or low...and so much more.

Such a change would allow Commission staff to work more proactively with each county instead of primarily putting out fires! Please let us know your thoughts/suggestions on such a system.

## Join us for the 2016 Commission meetings

The Commission has approved its Commission quarterly meeting dates for 2016. It is essential that members hear from the representatives all over the state. Please consider attending and making your county's voice heard.

- **March 23, 2016**
- **June 8, 2016**
- **September 21, 2016**
- **December 14, 2016**

*Commission Meetings are held at 30 S. Meridian St., Indianapolis, IN 46204 on the 8th Floor. A brief executive session may be held beginning at 2PM pursuant to I.C. 5-14-1.5-6.1(b)(9), followed by the regularly scheduled meeting.*

### Contact the Commission

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The reimbursement form has been updated! Find the latest version at:  
<http://courts.in.gov/pdc>



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## TPR/CHINS caseload standards increased

At the December 9, 2015 quarterly meeting, the Commission voted to modify both Standard and Guideline J (the caseload rules and guidelines). First, the Commission is now requiring uniform counting of Termination of Parental Rights (TPR) cases—every TPR appointment is to be reported to the Commission, regardless of whether or not the same parent had a public defender in the underlying Child in Need of Services (CHINS) case. These TPR cases are still to be counted as one per parent—the same as how CHINS cases are counted.

Second, the Commission is raising the caseload maximums for CHINS and TPR cases by 20% for inadequately staffed attorneys and 25% for adequately staffed attorneys. This should alleviate concerns regarding the consistent counting of TPR cases while also providing some additional buffer to counties suffering from dramatically increased filings of these case types. These changes are effective immediately and new case assignment worksheets are online at <http://courts.in.gov/pdc/>

The Commission continues to work toward updated caseload standards (see interior discussion re: caseload study). We hope that your county will volunteer to participate in the caseload study. Your participation will ensure your county's input in the development of new statewide caseload standards!

Sincerely, Derrick & Kathleen

### New caseload study

Staff attorneys plan to propose a new study to re-weight caseloads under the revised Criminal Code

### First county sued over public defense

Johnson County faces litigation for allegedly violating clients' sixth amendment right to counsel and deficient public defense

### Deadlines for 2016

Find important deadlines and meeting dates in this issue for the year ahead

### Year in review

Review some of the changes and highlights from the previous year

# Commission Directs Staff to Evaluate Caseload Study Cost

Current Commission caseload standards were created using information collected in the 1970s. While they were revolutionary for their times, they are now out of date. Now, after two criminal code revisions, staff attorneys have asked that the Commission fund a caseload study that would update the standards to reflect the current time necessary to represent our clients.

This exciting project would enable the Commission to create more accurate and scientifically sound caseload standards. Time will be measured not only by the amount of hours currently spent representing a person, but by the number of hours needed to represent a person effectively.

This method of caseload study is called the Delphi method and uses a panel of experts, along with time keeping data, to devise recommendations on how to calculate an ideal standard.

Indiana is particularly lucky to have one of the most prominent scholars in this area as Dean Emeritus Norman Lefstein, of the IU School of Law—Indianapolis. If you would like to learn more about this issue, his book is available online at: [http://texaswcl.tamu.edu/reports/2011/Lefstein\\_Securing\\_Reasonable\\_Caseloads.pdf](http://texaswcl.tamu.edu/reports/2011/Lefstein_Securing_Reasonable_Caseloads.pdf).

Staff attorneys previously applied for a grant with the Department of Justice; despite positive reviews from the DOJ, the Commission did not receive grant funding. Therefore, the Commission has directed staff attorneys to consider a proposed budget for the Commission to fund such a study. The Commission is enabled to fund such a study as part of its mandate to create standards for public defense. Staff attorneys hope to provide a proposal at the next meeting on March 23, 2016.

## First Indiana County Faces Litigation Over Public Defense

Johnson County Commissioners, judges, and public defenders have been named in a lawsuit by attorney Michael Sutherlin, alleging substantial problems with the public defense system in that county. Among the problems alleged are extremely high caseloads and specifically, the allowance of private caseloads in addition to full-time public defense caseloads. Mr. Sutherlin and his team are calling for an overhaul of the public defense system in that county. The complaint also alleged lack of sufficient client contact with those citizens incarcerated prior to trial.

Of particular interest to Commission counties are the allegations related to private caseloads. While private caseloads are not currently monitored by the Commission, it should be considered a potential source of litigation should a public defender have too many cases overall.

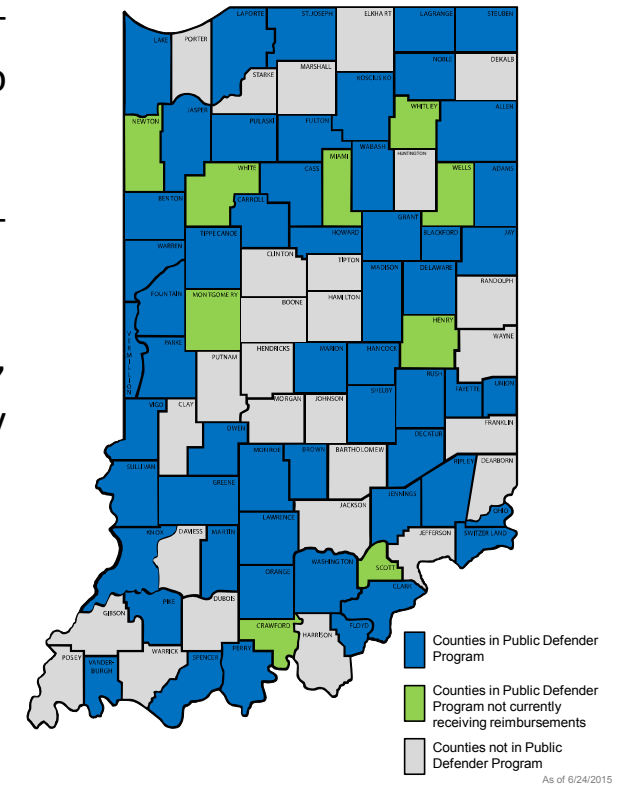
It has also come to the Commission's attention that misdemeanor representation will be an issue in the future. The Commission does not report attorneys as out of compliance on misdemeanor-only caseloads, but too many cases can give rise to sixth amendment violation claims. Please contact staff attorneys if you would like to discuss these issues.



Johnson County Courthouse. Source: Wikimedia.org

# Fiscal Year 2015 Year in Review

- A fiscal-year record **\$19,923,236** in non-capital reimbursements was distributed to a record **55** counties.
- **\$268,181.61** was reimbursed to six counties in twelve separate capital cases.
- More counties are set to join in January 1, 2016 raising our participating county count to at least **57**.



## Join Our Caseload Study

Staff attorneys need counties to sign up to participate in the caseload study proposed on the previous page.

If your county agrees to join the program, you will help ensure the caseload standards will in part reflect your county's particular needs and demands. Additionally, staff attorneys are considering the possibility of compensation for the extra effort required by counties to track data.

Timekeeping and metrics are the future of criminal justice, as it provides better outcomes for our clients. Please join us in this cutting-edge study!

## Important deadlines

- 4th Quarter 2015 due February 15, 2016
- 1st Quarter 2016 due May 13, 2016
- 2nd Quarter 2016 due August 15, 2016
- 3rd Quarter 2016 due November 14, 2016

**All Requests for Reimbursement must be postmarked by the above date. Please feel free to send in your submission early, and staff attorneys are happy to help with any questions you have in completing the report.**